

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KRIS K. BENNETT,

Plaintiff,

v.

HEATHER CODY, *et al.*,

Defendants.

CASE NO. C21-5153-JCC

ORDER

This matter comes before the Court on Plaintiff's motion for voluntary dismissal (Dkt. No. 24). For the reasons described below, the motion is GRANTED.

"A district court should grant a motion for voluntary dismissal unless a defendant can show that it will suffer some plain legal prejudice as a result." *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001) (citations omitted); *see* Fed. R. Civ. P. 41(a)(2). Here, Defendants cannot make this showing. It's early in the case, and Judge Creatura recommended granting leave to amend in the event of dismissal. (Dkt. No. 21.) Moreover, Defendants' objections (Dkt. No. 22) are unpersuasive. It's axiomatic that the Court must liberally construe *pro se* pleadings. Furthermore, although Plaintiff seeks to refile his case in state court, "[p]lain legal prejudice . . . does not result simply when defendant faces the prospect of a second lawsuit." *Hamilton v. Firestone Tire & Rubber Co.*, 679 F.2d 143, 145 (9th Cir. 1982).

The Court hereby ORDERS that this action be DISMISSED without prejudice.

1 DATED this 22nd day of October 2021.

2
3
4 

5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26